

Senate Daily Reader

Monday, February 02, 2004

[illegible]

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0313

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 24** - 01/29/2004

Introduced by: The Committee on Transportation at the request of the Department of
Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to require a licensed dealer who is going out of business
2 to notify the Department of Revenue and Regulation and submit to an exit audit and to
3 provide a penalty for failure to do so.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
6 follows:

7 A licensed dealer shall notify the department in writing thirty days in advance of going out
8 of business of its intention to go out of business. In circumstances beyond the dealer's control,
9 such as sudden illness, death, or foreclosure, the dealer shall have thirty days after any such
10 instance to provide written notification to the department. The department shall conduct an exit
11 audit with the dealer, at which time, the dealer shall turn in the dealer license and any dealer
12 plates that have been issued to the dealership. The dealer shall also provide a written plan for
13 disposing of any remaining inventory. The dealer shall also supply the department with its sales
14 records and shall attest the titles or manufacturer's statements of origin or manufacturer's
15 certificates of origin and other required documentation have been provided to all purchasers of



1 vehicles sold by the dealership. A violation of this section is a Class 1 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

445J0407

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 84** - 01/29/2004

Introduced by: Senators Olson (Ed), Abdallah, Albers, Brown, de Hueck, Koetzle, and Sutton (Dan) and Representatives Hackl, Garnos, Schafer, Sebert, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to require sellers and lessors of residential property to
2 disclose any knowledge of the existence of prior manufacturing of methamphetamines.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 43-32 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In any selling or hiring of a residential premises, any seller or lessor who has actual
7 knowledge of the existence of any prior manufacturing of methamphetamines on the premises
8 shall disclose that information to any buyer or lessee or any person who may become a buyer
9 or lessee.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

636J0616

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 104 - 01/29/2004

Introduced by: Senators Knudson, Earley, Kelly, McCracken, Schoenbeck, and Sutton (Dan)
and Representatives Madsen, Christensen, Glenski, Heineman, Hunhoff,
McLaughlin, Nesselhuf, Schafer, and Weems

1 FOR AN ACT ENTITLED, An Act to provide certain economic development incentives in
2 specified areas.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-13-10.2 be amended to read as follows:

5 13-13-10.2. The assessed value as determined in § 13-13-10.1 of any property in a tax
6 incremental district formed on or before December 31, 1994, and created pursuant to chapter
7 11-9 is the tax incremental base, as defined in § 11-9-19 until the tax incremental district ceases
8 to exist as provided in § 11-9-46. The assessed values, as determined in § 13-13-10.1 of any
9 property in a tax incremental district formed after December 31, 1994, and created pursuant to
10 chapter 11-9, is the total assessed value of the property determined by the Department of
11 Revenue and Regulation pursuant to § 11-9-24, until the tax incremental district ceases to exist
12 as provided in § 11-9-46. The provisions of this chapter do not apply to any tax incremental
13 district created after December 31, 1994, for industrial purposes. For the purposes of this
14 chapter, industrial includes only those activities generally recognized as industrial by zoning



1 authorities within the state, including any factory or any business engaged primarily in the
2 manufacturing or assembly of goods, the processing of raw materials, and the wholesale
3 distribution of products for resale. The provisions of this chapter do not apply to any tax
4 incremental district created after December 31, 2003, for economic development purposes. For
5 the purposes of this chapter, economic development includes any area where there is or will be
6 one or more businesses engaged in any activity defined as commercial or industrial by the
7 governing body that has zoning authority over the land contained within the tax incremental
8 district.

9 Section 2. That § 11-9-7 be amended to read as follows:

10 11-9-7. ~~In order to~~ To implement the provisions of this chapter, the resolution required by
11 § 11-9-5 shall contain a finding that the aggregate assessed value of the taxable property in the
12 district plus the tax incremental base of all other existing districts does not exceed ~~ten~~ twenty
13 percent of the total assessed value of taxable property in the municipality.

14 Section 3. That § 11-9-8 be amended to read as follows:

15 11-9-8. ~~In order to~~ To implement the provisions of this chapter, the resolution required by
16 § 11-9-5 shall contain findings that:

17 (1) Not less than twenty-five percent, by area, of the real property within the district is
18 ~~a blighted~~ an area in need of economic development; and

19 (2) The improvement of the area is likely to enhance significantly the value of
20 substantially all of the other real property in the district;

21 ~~—(3)— If the municipality is a county, there are, or there is a reasonable likelihood that there~~
22 ~~will be, one or more businesses engaged in manufacturing or in the transportation,~~
23 ~~storage, processing, or sale of agricultural products, located within the district.~~

24 It is not necessary to identify the specific parcels meeting the criteria. No county may create

a tax incremental district located, in whole or in part, within a municipality, unless the governing body of such municipality has consented thereto by resolution.

Section 4. That § 11-9-9 be amended to read as follows:

11-9-9. Any area, including slum area, in which the structures, buildings, or improvements, by reason of:

- (1) Dilapidation, age, or obsolescence;
- (2) Inadequate provisions for ventilation, light, air, sanitation, or open spaces;
- (3) High density of population and overcrowding;
- (4) The existence of conditions which endanger life or property by fire and other causes;
- or
- (5) Any combination of such factors;

are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and which is detrimental to the public health, safety, morals, or welfare, is ~~a blighted~~ an area in need of economic development.

Section 5. That § 11-9-10 be amended to read as follows:

11-9-10. Any area which by reason of:

- (1) The presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures;
- (2) Predominance of defective or inadequate street layouts;
- (3) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (4) Insanitary or unsafe conditions;
- (5) Deterioration of site or other improvements;
- (6) Diversity of ownership, tax, or special assessment delinquency exceeding the fair value of the land;

1 (7) Defective or unusual conditions of title;

2 (8) The existence of conditions which endanger life or property by fire and other causes;

3 or

4 (9) Any combination of such factors;

5 substantially impairs or arrests the sound growth of a municipality, retards the provision of

6 housing accommodations, or constitutes an economic or social liability and is a menace to the

7 public health, safety, morals, or welfare in its present condition and use, is a ~~blighted~~ an area in

8 need of economic development.

9 Section 6. That § 11-9-11 be amended to read as follows:

10 11-9-11. Any area which is predominantly open and which because of obsolete platting,

11 diversity of ownership, or deterioration of structures or of site improvements, ~~or otherwise,~~

12 ~~substantially impairs or arrests the sound growth of a municipality, is a blighted~~ is an area in

13 need of economic development.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

493J0632

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 147** - 01/28/2004

Introduced by: Senators Moore and Olson (Ed) and Representatives Michels and Hunhoff

1 FOR AN ACT ENTITLED, An Act to establish a fund for rehabilitation services for persons
2 with spinal cord or traumatic brain injuries and the research of spinal cord and traumatic
3 brain injuries and to create an advisory council for the disbursement of the fund.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. There is established in the state treasury the spinal cord and traumatic brain injury
6 fund. Any liquidated costs collected pursuant to section 2 of this Act and any federal grants,
7 private donations, and other moneys designated for the spinal cord and traumatic brain injury
8 fund shall be deposited in the fund. The moneys in the fund shall be appropriated by the
9 Legislature to the Department of Human Services for the purpose of funding rehabilitation
10 services for persons with spinal cord or traumatic brain injuries and funding research projects
11 that promote the advancement of knowledge in the area of spinal cord and traumatic brain
12 injury. Notwithstanding § 4-8-21, any unexpended or unobligated moneys may not revert to the
13 fund from which appropriated.

14 Section 2. Any person convicted of any violation of § 32-23-1 shall, in addition to any other
15 penalty, assessment, or fine provided by law, pay a liquidated cost in the amount of twenty-five



1 dollars, which shall be deposited in the spinal cord and traumatic brain injury fund.

2 Section 3. There is created an advisory council on spinal cord and traumatic brain injury.

3 The advisory council shall be composed of nine members, two of which shall be persons who

4 have a spinal cord injury and one who has had a traumatic brain injury. The balance of the

5 advisory council shall consist of physicians and other allied health professionals who have

6 expertise in the area of spinal cord and traumatic brain injuries. The secretary of the Department

7 of Human Services shall appoint the members. Terms on the advisory council shall be four

8 years, with no member serving more than two terms. Any member unwilling or unable to fulfill

9 a term shall be succeeded by a member chosen by the secretary to fulfill that term. If the

10 unexpired balance of the replaced member's term is less than eighteen months, the succeeding

11 member may be reappointed by the secretary twice. The advisory council shall provide advice

12 and expertise to the department regarding the disbursement of the funds in the spinal cord and

13 traumatic brain injury fund.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

490J0471

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 154** - 01/28/2004

Introduced by: Senators Knudson and de Hueck and Representatives Madsen, Cutler,
Deadrick (Thomas), and Engels

1 FOR AN ACT ENTITLED, An Act to revise certain filing fees collected by the secretary of
2 state.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 47-34-54 be amended to read as follows:

5 47-34-54. The secretary of state shall charge and collect for:

6 (1) Filing the original articles of organization and issuing certificates of organization, in
7 the case of a domestic limited liability company or filing, registering, and issuing a
8 certificate of authority in the case of a foreign liability company; ~~if the total agreed~~
9 ~~contributions of the limited liability company are,~~ a filing fee of two hundred fifty
10 dollars;

11	————— \$25,000 or less	\$ 100
12	————— Over \$25,000 and not exceeding 100,000	—125
13	————— Over \$100,000 and not exceeding 500,000	—200
14	————— Over \$500,000 and not exceeding 1,000,000	—300
15	————— Over \$1,000,000 and not exceeding 1,500,000	—400



1	Over \$1,500,000 and not exceeding 2,000,000	—500
2	Over \$2,000,000 and not exceeding 2,500,000	—600
3	Over \$2,500,000 and not exceeding 3,000,000	—700
4	Over \$3,000,000 and not exceeding 3,500,000	—800
5	Over \$3,500,000 and not exceeding 4,000,000	—900
6	Over \$4,000,000 and not exceeding 4,500,000	1,000
7	Over \$4,500,000 and not exceeding 5,000,000	1,100
8	For each additional \$500,000, \$250 in addition to \$1,100.	

9 (2) For amending the articles of organization in the case of a domestic limited liability
10 company or amending the registration in the case of a foreign limited liability
11 company, a filing fee of ~~fifty dollars, together with the appropriate fee set out in~~
12 ~~subdivision (1) of this section if the amendment is to increase the amount of capital~~
13 one hundred seventy-five dollars;

14 (3) For filing articles of dissolution, issuing a certificate of dissolution, and canceling the
15 certificate of organization, ten dollars;

16 (4) For filing a statement of change of address of registered office or change of registered
17 agent, or both, ten dollars;

18 (5) For filing articles of merger or consolidation, fifty dollars;

19 (6) An annual tax of fifty dollars, due and payable January second of each year. This tax
20 is delinquent if not paid by February first and a penalty of fifty dollars shall also be
21 assessed.

22 Section 2. That § 47-34A-212 be amended to read as follows:

23 47-34A-212. The secretary of state shall charge and collect for:

24 (a) Filing the first annual report ~~if the total agreed contribution of the limited liability~~
25 ~~company are,~~ a filing fee of two hundred fifty dollars;

1	————— \$25,000 or less	\$ 100
2	————— Over \$25,000 and not exceeding 100,000	—125
3	————— Over \$100,000 and not exceeding 500,000	—200
4	————— Over \$500,000 and not exceeding 1,000,000	—300
5	————— Over \$1,000,000 and not exceeding 1,500,000	—400
6	————— Over \$1,500,000 and not exceeding 2,000,000	—500
7	————— Over \$2,000,000 and not exceeding 2,500,000	—600
8	————— Over \$2,500,000 and not exceeding 3,000,000	—700
9	————— Over \$3,000,000 and not exceeding 3,500,000	—800
10	————— Over \$3,500,000 and not exceeding 4,000,000	—900
11	————— Over \$4,000,000 and not exceeding 4,500,000	1,000
12	————— Over \$4,500,000 and not exceeding 5,000,000	1,100
13	————— For each additional \$500,000, \$250 in addition to \$1,100.	
14	————— The maximum amount charged under this subsection together with any subsequent	
15	payments under subsection (b) may not exceed sixteen thousand dollars. The filing	
16	fee required pursuant to this subsection is not applicable if the limited liability	
17	company has previously paid the fee required pursuant to subdivision 47-34-54(1).	
18	(b)	Filing any subsequent annual report that reflects additional contribution in excess of
19		those stated in the last prior report, any additional fee necessary to make the
20		cumulative fee match the cumulative agreed contributions as provided in subsection
21		(a); above the agreed contributions as set forth in the last previous annual report
22		consistent with subsection (a).
23	(c)	A reporting fee of fifty dollars, due and payable with the filing of all annual report,
24		after the first annual report required in § 47-34A-211(c).
25	Section 3. That § 47-34A-1206 be amended to read as follows:	
26	47-34A-1206. The secretary of state may charge the following fees:	

- 1 (a) For amending or restating the articles of organization in the case of a domestic
2 limited liability company or amending the registration in the case of a foreign limited
3 liability company, a filing fee of ~~fifty~~ one hundred seventy-five dollars;
- 4 (b) For filing articles of termination, ten dollars;
- 5 (c) For filing articles of merger, fifty dollars;
- 6 (d) For filing a statement of dissociation, ten dollars;
- 7 (e) For filing an application to reserve a name, twenty dollars;
- 8 (f) For issuing a certificate of existence, fifteen dollars;
- 9 (g) For filing an application for registration of name, one dollar for each month, or
10 fraction thereof, between the date of filing such application and December thirty-first
11 of the calendar year in which such application is filed;
- 12 (h) For filing an annual renewal of registration, a limited liability company which has in
13 effect a registration of its name, may renew such registration from year to year by
14 annually filing an application for renewal setting forth the facts required to be set
15 forth in an original application for registration and a certificate of good standing as
16 required for the original registration and by paying a fee of ten dollars. A renewal
17 application may be filed between the first day of October and the thirty-first day of
18 December in each year; and shall extend the registration for the following year;
- 19 (i) For acting as agent for service of process the secretary of state shall charge and
20 collect at the time of such service twenty-five dollars which may be recoverable as
21 taxable costs by the party to the suit or action causing the service to be made if the
22 party prevails in the suit or action.

23 Each limited liability company, domestic or foreign, that fails or refused to file its annual
24 report for any year within the time prescribed is subject to a penalty of fifty dollars to be

assessed by the secretary of state.

Section 4. That § 47-9-7 be amended to read as follows:

47-9-7. The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation or filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing the certificate, two hundred fifty dollars;

Authorized capital stock of \$25,000 or less	\$ 100
Over \$25,000 and not exceeding 100,000	125
Over \$100,000 and not exceeding 500,000	200
Over \$500,000 and not exceeding 1,000,000	300
Over \$1,000,000 and not exceeding 1,500,000	400
Over \$1,500,000 and not exceeding 2,000,000	500
Over \$2,000,000 and not exceeding 2,500,000	600
Over \$2,500,000 and not exceeding 3,000,000	700
Over \$3,000,000 and not exceeding 3,500,000	800
Over \$3,500,000 and not exceeding 4,000,000	900
Over \$4,000,000 and not exceeding 4,500,000	1,000
Over \$4,500,000 and not exceeding 5,000,000	1,100
For each additional \$500,000, \$250 in addition to \$1,100.	

~~For purposes only of computing fees under this section, the dollar value of each authorized share having a par value shall be equal to par value and the value of each authorized share having no par value shall be equal to one hundred dollars per share. The maximum amount charged under this subdivision may not exceed sixteen thousand dollars;~~

(2) Filing articles of amendment and issuing a certificate of amendment, fifty one hundred seventy-five dollars;

- 1 (3) Filing restated articles of incorporation, ~~fifty~~ one hundred seventy-five dollars;
- 2 (4) Filing articles of merger or consolidation and issuing a certificate of merger or
3 consolidation, fifty dollars;
- 4 (5) Filing an application to reserve a corporate name, twenty dollars;
- 5 (6) Filing a notice of transfer of a reserved corporate name, ten dollars;
- 6 (7) Filing a statement of change of address of registered office or change of registered
7 agent, or both, ten dollars;
- 8 (8) Filing a statement of the establishment of a series of shares, fifty dollars;
- 9 (9) Filing a statement of cancellation of shares, fifty dollars;
- 10 (10) Filing a statement of reduction of stated capital, fifty dollars;
- 11 (11) Filing a statement of revocation of voluntary dissolution proceedings, ten dollars;
- 12 (12) Filing articles of dissolution, ten dollars;
- 13 (13) Filing an application of a foreign corporation for an amended certificate of authority
14 to transact business in this state and issuing an amended certificate of authority, ~~fifty~~
15 one hundred seventy-five dollars;
- 16 (14) Filing a copy of an amendment to the articles of incorporation of a foreign
17 corporation holding a certificate of authority to transact business in this state, ~~fifty~~
18 one hundred seventy-five dollars;
- 19 (15) Filing a copy of articles of merger of a foreign corporation holding a certificate of
20 authority to transact business in this state, fifty dollars;
- 21 (16) Filing an application for withdrawal of a foreign corporation and issuing a certificate
22 of withdrawal, ten dollars;
- 23 (17) Filing any other statement or report except an annual report, of a domestic or foreign
24 corporation, ten dollars;

1 (18) Filing by a domestic corporation of articles of amendment, restated articles of
2 incorporation, or articles of merger or consolidation in which the surviving
3 corporation is a domestic corporation, which provides authority to increase the
4 number of authorized shares of such corporation, in addition to the other fees
5 imposed by this section, an additional fee shall be charged as shall make, together
6 with the fee paid at the time of the incorporation, a total sum equal to the fee which
7 would be required under this section in case the corporation had been incorporated
8 for such total increased capitalization;

9 (19) Filing by a foreign corporation of articles of amendment or articles of merger when
10 the surviving or new corporation is a foreign corporation, which articles provide
11 authority to increase the number of authorized shares of such foreign corporation, in
12 addition to the other fees imposed by this section, an additional fee shall be charged
13 as shall make, together with the fee paid at the time of authorization based on the fee
14 schedule in subdivision (1) of this section, a total sum equal to the fee which would
15 be required under this section in the case the corporation had been authorized for
16 such total increased capitalization;

17 (20) All articles of amendment or articles of merger if the surviving or new corporation
18 is a foreign corporation shall be filed with the secretary of state within thirty days
19 after they have been filed with the secretary of state or other proper officer of the
20 state wherein the corporation is organized. In case of failure to so file within the time
21 specified in this subdivision, the corporation shall pay to the secretary of state on the
22 filing of such articles of amendment or articles of merger a penalty of twenty-five
23 dollars;

24 (21) Filing an annual report of a domestic or foreign corporation, thirty dollars;

- 1 (22) Each corporation, domestic or foreign, that fails or refuses to file its annual report for
- 2 any year within the time prescribed by this chapter is subject to a penalty of fifty
- 3 dollars to be assessed by the secretary of state;
- 4 (23) Issuing a certificate of existence, fifteen dollars;
- 5 (24) Filing articles of correction, twenty dollars.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

545J0694

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 160** - 01/29/2004

Introduced by: Senator Albers and Representative Dykstra

1 FOR AN ACT ENTITLED, An Act to authorize a municipality to enter into leases for
2 communications towers on water towers located on park land and for related ground
3 facilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 9-38-35 be amended to read as follows:

6 9-38-35. Neither the governing body nor the board may permit any person to build or
7 maintain any structure within any park or parkway under the control of the board. No structure
8 may be erected or maintained within any park or parkway except such structures or buildings
9 as may be erected by the board for park purposes, and such statues, monuments, works of art,
10 or structures intended for ornamentation only as may be erected by authority of the board.
11 However, the governing body or the board may authorize the building and operation of tourism,
12 science, or information centers within any park or parkway. ~~Such~~ The centers may include the
13 administrative offices of any nonprofit association or corporation responsible for the operation
14 of the center. If a water tower is located within a park or on park land, the governing body or
15 the board may authorize the installation of communications equipment, including personal



1 wireless service equipment, on the tower or on the ground and may authorize the installation of
2 equipment to run wires or cables underground across the park land in order to connect the
3 installation with facilities located outside the park land. The governing body or board shall
4 establish the terms and conditions for any such installation in a lease or license agreement.